IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 179 OF 2007

Ashwin Shambhunath Jha ..Applicant
V.s
State of Maharashtra ..Respondent.

Mr. I.A. Bagaria, Advocate for the applicant

Ms. R.M. Gadhvi, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 5TH FEBRUARY, 2007.

P.C.

1. Heard Mr. Bagaria, learned Counsel for the applicant and Ms. Gadhvi, learned APP for the State. The applicant who has been arrested in Crime No. 8/2005, Economic Offence Wing, Unit III of Bombay and who is now facing Criminal Case No. 226/PW/2006 arising out of said crime,, seeks to be released on bail.

2. According to the prosecution, one Prosper Interlink Pvt. Ltd was a multi marketing company and it was allegedly dealing in production of 20 or 22 products. One kit of the products use to cost at Rs. 710/-. It appears that one Amit Naik had with the help of others allured large number of customers to enter

into contracts with his Prosper Interlink Pvt. Ltd Company. The customers paid huge amounts to Amit Naik for supply of said kits, because they were assured huge profit in sale of those kits in the market or to the users. Thus, amount of more than Rs.49 lacs was collected by said Amit Naik from different customers for supply of said kits. However, the kits were not supplied. On the basis of report lodged by such customers initially the offence was registered as Crime No. 48/2005 at Ghatkopar Police Station for the offence punishable under Section 406, 420 against Amit Naik. Later on the matter was transferred to Economic Offence Wing. The investigation is already completed and charge-sheet is also filed against the present applicant. According to the prosecution, the offence was registered on the report of Ramkrishna Badgujar, who himself was also victim of offence. Amit Naik, who is main culprit, is absconding.

2. The applicant claims that he is professional holding degree of MBA and during the relevant period he was serving with Prosper Interlink Pvt. Ltd and was getting salary of Rs. 15000/- per month. Said Amit Naik was actually Managing Director and owner of the

company. The present applicant contends that neither he entered into contracts with any of the customers nor he received any amount from them. After leaving job of that company he had joined service of M/s Sasen Consulting at Delhi. When the applicant was arrested on 29/6/2005 he was in service of M/s Sasen Consultancy at Delhi. According to him, he has no concern with the commission of crime and as the police failed to arrest the real culprit Amit Naik, they have filed charge-sheet against him only. On the other hand, the contention of the prosecution that in the said company the present applicant was having equal shares along with Amit Naik and therefore, he is also equally responsible for the offence committed by the company.

3. It is true that as per the documents collected by the police, the present applicant was a partner and he was also working as a Director of the said Company. However, it is admitted fact that the present applicant himself had not entered into any contract with any of the customers, nor he had received the amounts from them. The amounts were received by Amit Naik and the contracts were also entered by him only. Said contracts were entered into some time in the year 2003. The

offence was registered in 2005. Taking into consideration the circumstances noted above, I find that the interest of justice demands that the applicant who is not the main culprit may be granted bail.

4. For the aforesaid reasons, the applicant is hereby granted bail in Crime No. 8/2005, Economic Offence Wing Unit III, Bombay on his executing P.R. in the sum of Rs. 25,000/- with surety in like amount with conditions that he shall not tamper with the prosecution evidence and shall not misuse the bail.

(J.H. BHATIA, J.)